

# IDAHO Supreme Court

JUDICIAL/ADMINISTRATIVE NEWS

NOVEMBER/DECEMBER 2007



## Investiture for Justice Joel Horton

The formal investiture ceremony for Justice Joel Horton was held November 20, 2007. He was recently appointed to the position to replace Justice Linda Copple Trout, by Governor "Butch" Otter. Justice Horton began hearing Supreme Court cases on October 3rd in Idaho Falls.



## Judge Peter McDermott Brings 26 Years of Service to Administrative Judgeship

Judge Peter McDermott is the most senior District Judge in Idaho. He has served the Idaho judicial system since 1981 and in that time has seen a number of positive changes and has gained valued perspective on the future of Idaho courts.

As Administrative District Judge for the 6th Judicial District and with 26 years of service, Judge McDermott regrets that as Idaho has grown in population, the increase in case load has been difficult to keep up with. Particularly since civil cases tend to have more pretrial motions and the criminal cases include increasingly violent crimes.

As the caseloads increase, Judge McDermott sees the need for more fulltime judges and creative solutions.

In his role as Administrative District Judge, Judge McDermott is trying to implement changes that will provide relief to a system feeling growing pains. Judge McDermott recently took a lesson from Twin Falls County. He and others launched a major effort to discontinue the practice of allowing individuals to pay off fines through jail time. This initiative was meant to curb jail crowding, at any given time 30-40 people might be in jail "sitting out fines." Now, the district works with a collection agency to collect the fines. The simplified process was supported by many because it saves the judge time spent processing the individual, and it relieves the Sheriff's office having to track down and arrest those who don't pay their fines. The hope is that this type change will dramatically decrease jail crowding.



### **Notice of Vacancy, Schedule of Dates - District Judge Position**

The following are the names of the candidates for District Judge of the 4th Judicial District (Justice Horton's position):

- ⚖️ **Crossan, Jr., Thomas G.**  
Colonel Military Staff Judge Advocate, Brooks City-Base  
San Antonio, Texas
- ⚖️ **Ford, Bradley S.**  
Magistrate Judge of the 3rd Judicial District  
Caldwell, Idaho
- ⚖️ **Hansen, Timothy L.**  
Magistrate Judge of the 4th Judicial District  
Boise, Idaho
- ⚖️ **Peterson, Jr., Charles F.**  
Lawyer in private practice  
Boise, Idaho
- ⚖️ **Von Tagen, William A.**  
Deputy Attorney General  
Boise, Idaho

### **Robin Christensen Resigns as Clearwater County Clerk**

Clearwater County Clerk, Robin Christensen, has resigned from her position to join the Washington County auditor's staff.

Christensen has worked for Clearwater County since 1978.

She began her 27 years of service working in the county court office and then part-time for the county prosecutor. In 1982, she moved to the auditor's office, where she found herself truly enjoying the work and by 1992, Christensen was appointed Clearwater County Clerk.

Fortunately, Christensen is staying in county government. She is taking a position with the Washington County auditor's office starting after the New Year. Christensen says that she is making the move because it was "about time for a change" and it allows her to be close to her daughter and grandchildren.

### **Crowley Named to Jefferson County Magistrate Judge Position**

Robert L. Crowley was selected by the Seventh Judicial District Magistrates Commission to be the new Jefferson County Magistrate Judge. Crowley will fill the position vacated by the Honorable Judge Michael Kennedy who served as Magistrate Judge for 25 years. Crowley received his Bachelors degree from BYU in 1974 and his law degree from the University of Idaho in 1977. From April 1982 up until now, Crowley practiced law in Jefferson County and has gained valuable experience in mediating custody issues and in Drug Court proceedings. From 1994-1995, he served as the Seventh District Bar Association President.



### **Disarming Domestic Abusers**

Judge Gaylen Box presented a CLE program to the local family law bar last year and recently presented a segment on "Disarming Domestic Abusers" for the ISB Continuing Legal Education Family Law Update, which will be in the ISB Family Law Handbook and the Judges Benchguide, and is available at:

<http://www.isc.idaho.gov/links/Disarming%20Domestic%20Abusers%20final.pdf>

### **Misdemeanor Crimes of Domestic Violence and Idaho Courts**

U.S. Attorney Thomas Moss asked that all judges and court clerks be advised regarding misdemeanor crimes of domestic violence and Idaho Courts, available online at:

<http://www.isc.idaho.gov/links/Misd%20crimes%20of%20DV%20and%20ID%20Courts.pdf>



### **State v. Rogers – Due Process Requirements in Drug Court Terminations**

The Idaho Supreme Court issued an opinion requiring courts to observe essentially the same due process standards when terminating defendants from post-guilty plea drug courts as they would when revoking probation.

In State v. Rogers, 2007 WL 3052943 (Idaho October 22, 2007), the Court held that defendants who plead guilty in exchange for entry into drug court have a protected liberty interest in remaining in the program, and are therefore entitled to due process in the termination proceedings. Quoting from Morrissey v. Brewer, 408 U.S. 471, 489 (1972), the Court stated that the due process requirements include:

- ⚖ Written notice of the claimed violations of parole;
- ⚖ Disclosure to the parolee of evidence against him;
- ⚖ Opportunity to be heard in person and to present witnesses and documentary evidence;
- ⚖ The right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation);
- ⚖ A 'neutral and detached' hearing body such as a traditional parole board, members of which need not be judicial officers or lawyers;
- ⚖ A written statement by the fact finders as to the evidence relied on and reasons for revoking parole. "We emphasize there is no thought to equate this second stage of parole revocation to a criminal prosecution in any sense. It is a narrow inquiry; the process should be flexible enough to consider evidence including letters, affidavits, and other material that would not be admissible in an adversary criminal trial."

The Court went on to state that "this process is to be flexible, does not need to be equated to a separate criminal prosecution and may be informal, on the condition that the safeguards are provided. The drug court judge may preside over the termination proceedings."

This decision and its implication will be discussed at the Drug and Mental Health Courts Institute and at the District Judges Seminar in January.

### **The Twin Falls DUI Court will be a Beneficiary**

The Twin Falls DUI Court and the misdemeanor probation department are the beneficiaries of a Justice Assistance Grant recently received by Twin Falls County.

The grant allows the DUI court and the misdemeanor probation department to purchase and train for the SCRAM ankle alcohol monitor and it also will provide funds for substance abuse treatment services for DUI court participants.

The Twin Falls DUI court, presided over by Judge Howard Smyser, is growing quickly and will greatly benefit from the Justice Assistance Grant. The court now has 34 participants and will celebrate its first graduation in early January. Coordinator Steve Conger has also now been certified to administer the Global Appraisal of Individual Needs the GAIN Q version.

### **Caribou County DUI/Drug Court Graduation Held**

Judges Don Harding and Ron Hart held a Caribou County DUI/Drug Court Graduation on October 24 at the Caribou County Courthouse.

### **National Association of Drug Court Professionals Training Conference**

The National Association of Drug Court Professionals will host the 2008 Annual Training Conference in St. Louis May 28-31.

The registration deadline is April 25, 2008.

Information available at:

<http://www.isc.idaho.gov/links/St.%20Louis%20Flyer.pdf>





### **Idaho Judges and Director of Court Services Attend Conference on Self-Represented Litigants**

As a part of the continued effort to assist self-represented litigants, a team of four Idaho Judges and the Director of Court Services attended the Harvard Judicial Conference on assisting self-represented litigants. The goals of the conference were to provide attendees with hands on experience in teaching the subject matter and to provide information on the best practices from around the nation.

Idaho courts have worked for ten years to implement and improve a Court Assistance Program to help those without legal representation. Currently, each county in the state offers some form of assistance ranging from full service offices in large counties to brochures and court form packets in counties with smaller populations. Idaho is a national leader in providing innovative services such as the interactive court forms that guide litigants through court forms using an interactive program over the internet. Despite this work, Idaho has experienced a growing number of self-represented litigants and it was felt that Idaho judges need increased education and substantive tools on how to effectively work with self-represented litigants and that Idaho courts could learn more about the best practices around the nation.

Judge Michael Dennard, Judge Penny Friedlander, Judge Scott Hanson and Judge David Day attended the conference with the Director of Court Services, Corrie Keller. While there, they received curriculum on the judicial ethics of just how far a judge can go to assist an individual representing his or her self and on how best to communicate with those who are unfamiliar with legal jargon. They were also given a set of tools which included a bench book that covers court proceedings from start to finish with a self-represented litigant, simplified court forms and information on special procedures. The team also attended workshops to learn different teaching techniques so that they could return home and effectively share the information they gathered.

According to Judge Dennard, the team will present to the Judicial Education Committee a proposal to start a comprehensive training program that will encourage judicial leadership and provide workshops on the ethics, tools and best practices of working with self-represented litigants.

### **New Committee Chairs Appointed by the Supreme Court:**

-  **Appellate Rules Committee:**  
Chief Justice Eismann, Chair
-  **Administrative Conference:**  
Chief Justice Eismann, Chair
-  **Media/Courts Committee:**  
Chief Justice Eismann, Chair
-  **Drug Courts / Mental Health Courts:**  
Chief Justice Eismann – Chair  
Judge Brent Moss – Vice Chair
-  **Judicial Education:**  
Justice Horton, Chair
-  **Civil Rules Committee:**  
Justice W. Jones, Chair
-  **Civil Jury Instructions:**  
Justice W. Jones, Chair
-  **Criminal Jury Instructions:**  
Justice Burdick, Chair
-  **Criminal Rules Committee:**  
Justice Burdick, Chair
-  **Rule 32 Committee (E-Records):**  
Justice J. Jones, Chair
-  **Death Penalty Counsel Committee:**  
Justice Burdick, Chair

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is published by the Idaho Supreme Court.

Chief Justice Daniel T. Eismann  
Justice Roger S. Burdick  
Justice Jim Jones  
Justice Warren E. Jones  
Justice Joel Horton

We are very interested in your news and information. If you have or are aware of items that should be featured in a future edition of Judicial/Administrative News please let us know!

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Thanks!



**Note:** For the most up-to-date Judicial Calendar,  
check the Judiciary's homepage at  
<http://www.isc.idaho.gov/calendar.htm>

